

AMENDMENT

U.S. Appln. No. 10/800,911

REMARKS

On page 2 of the Office Action, the Examiner rejects Claim 10 under 35 U.S.C. § 112, second paragraph.

Specifically, the Examiner states that the recitation "under stringent conditions" is unclear and the specification does not define this limitation.

In view of the amendments to Claim 10, Applicants respectfully submit that the Examiner's rejection has been rendered moot.

Note, support for the amendment to Claim 10 to recite "washing conditions of 30 minutes at 65°C with 2xSSC", can be found, *inter alia*, in the paragraph bridging pages 9-10 of the specification.

Also, note, support for the amendment to Claim 10 to recite "consisting of the nucleotide sequence of nucleotides 1581 to 2382 of SEQ ID NO:2", can be found, *inter alia*, at page 31, lines 6-9 of the present specification.

In addition, on page 2 of the Office Action, the Examiner rejects Claim 10 under 35 U.S.C. § 112, first paragraph.

For the following reasons, Applicants respectfully traverse the Examiner's rejection

Applicants respectfully submit that the Examiner's rejection is improper since, as noted above, the specification teaches molecules which hybridize under the above-noted stringent conditions.

Accordingly, Applicants respectfully submit that the claims are enabled by the present specification and have written

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description support in the specification. Thus, Applicants request withdrawal of the Examiner's rejection.

On page 4 of the Office Action, the Examiner rejects Claim 10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 5,932,445.

Specifically, the Examiner states that the '445 patent discloses a polynucleotide which matches 100% with nucleotides 96 to 1056 of SEQ ID NO:2, and thus is capable of hybridizing to the instant SEQ ID NO:2.

For the following reasons, Applicants respectfully traverse the Examiner's rejection.

It may be correct that "the nucleotide sequence from nucleotides 96-1056 of SEQ ID NO:11 of the '445 patent matches 100% to the nucleotide sequence of nucleotides 1-961 of the instant SEQ ID NO:2".

However, the Examiner is requested to note that the claims have been limited to the nucleotide sequence of nucleotides 1581-2382 of the instant SEQ ID NO:2.

As shown in Appendix 4 (attached hereto), the nucleotide sequence disclosed in the '445 patent (SEQ ID NO:11 of the '445 patent) does not overlap with the nucleotide sequence of nucleotides 1581-2382 of the instant SEQ ID NO:2. Thus, it is clear that the nucleotide sequence disclosed in the '445 patent does not have the capability to hybridizing to the claimed sequence under the recited conditions.

Accordingly, Applicants respectfully submit that the present invention is not taught or suggested by the '445 patent, and thus request withdrawal of the Examiner's rejection.

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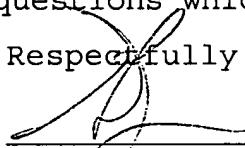
On page 5 of the Office Action, the Examiner rejects Claim 10 under the doctrine of obviousness-type double patenting as being unpatentable over Claims 1-3 of U.S. Patent 6,822,083.

The Examiner's rejection has been rendered moot by the Terminal Disclaimer, simultaneously filed herewith.

In view of the amendments to the claim, and the arguments set forth above, reexamination, reconsideration and allowance are respectfully requested.

The Examiner is invited to contact the undersigned at his Washington telephone number on any questions which might arise.

Respectfully submitted,


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